

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 8282 of 2015 (I)

PETITIONER:

**MUNEERA, W/O.SULAIMAN. K.T,
KALPATLA THADATHIL HOUSE,
MAVOOR. P.O., KOZHIKODE DISTRICT.**

BY ADV. SRI.P.I.GEORGEKUTTY.

RESPONDENTS:

- 1. THE KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.,
MAVOOR BRANCH, REPRESENTED BY ITS BRANCH MANAGER,
PIN-673 661.**
- 2. THE AUTHORIZED OFFICER,
THE KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, PB. NO.503, CHALAPPURAM. P.O.,
KOZHIKODE-673 002.**

BY ADV. SRI.R.SUDHISH, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 THE TRUE COPY OF THE NOTICE UNDER SECTION 13(4) OF THE
 SECURITISATION ACT, 2002 DATED 14.10.2011.
- EXT.P2 THE TRUE COPY OF THE NOTICE FROM THE 1ST RESPONDENT
 DATED 20.03.2013.
- EXT.P3 THE TRUE COPY OF THE NOTICE ISSUED BY THE COMMISSIONER
 DATED 90.03.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.8282 OF 2015 (I)

Dated this the 19th day of March, 2015

J U D G M E N T

The petitioner, who is the wife of the borrower, who had availed of loans from the respondent bank, has approached this Court challenging the steps taken by the respondent bank under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts, the repayment of which was defaulted by her husband. Ext.P1 is the possession notice issued to the petitioner under Section 13(4) of the SARFAESI Act and Ext.P3 is the notice issued by the Advocate Commissioner pursuant to the direction issued by the Chief Judicial Magistrate Court, Kozhikode. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing counsel appearing for the respondent bank.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I note that the sole prayer

of the petitioner is to permit her to remit the balance amounts outstanding to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

(i) The total amount outstanding from the petitioner's husband to the respondent bank, is stated to be Rs.5,80,273/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.5,80,273/- together with accrued interest in six equal and successive installments commencing from 30.3.2015, then further proceedings for recovery initiated against the petitioner and her husband by the respondent bank shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a default in respect of any of the installments, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against the petitioner and her husband from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp